DOCUMENT RESUME

ED 034 380 EF 003 678

TITLE	Minutes of the Bidding Procedures Symposium Sponsored by the University of New Mexico [New Mexico Union Theater, November 3, 1965].
INSTITUTION	New Mexico Univ., Albuquerque. Dept. of Physical Plant.
PUB DATE	Nov 65
NOTE	31p.
EDRS PRICE	EDRS Price MF-$0.25 HC-$1.65
DESCRIPTORS	*Bids, *Contracts, *Educational Finance, School Construction, Symposia

ABSTRACT

The issues and problems concerning construction bidding procedures which are discussed in the opening remarks of the panel members are reflective of their occupations--owner, architect, consulting engineer, general contractor, subcontractor, and attorney. A panel exchange and comments from the floor are presented in addition to the proposed action for setting up a continuing board of study. (FS)

ED034380

ROBERT L. HOUSTON

MAX FLATOW

CHARLES H. LEMBKE

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U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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MINUTES OF THE BIDDING PROCEDURES SYMPOSIUM • SPONSORED BY THE UNIVERSITY OF NEW MEXICO NEW MEXICO UNION THEATER NOVEMBER 3, 1965 • FOR THE NEXT STEP, SEE PAGE 25

EF 003 678

SYMPOSIUM OBJECTIVE

"Competition is the keystone of our American free-enterprise system, and competitive bidding is an indispensable element to the proper functioning of the construction industry. Because of the several divergent interests that are served by bidding, controversy concerning the procedures followed continues to introduce a disruptive tone. The bidding of a construction project is a complex matter, and no bidding procedure has yet been devised that is completely acceptable to all affected parties. Nevertheless, it is important that the construction industry continue to work toward this end, and that advantage be taken of every opportunity to exchange viewpoints and ideas."

Richard H. Clough

ED034380

Panel Participants

Representing

OWNERS

Robert L. Houston, PE
Vice President and Director Physical Plant
University of Arizona
Tucson, Arizona

Representing

ARCHITECTS

Max Flatow, AIA & PE
Flatow, Moore, Bryan & Fairburn
Architects
Albuquerque, Phoenix

Representing

GENERAL CONTRACTORS

Charles H. Lembke, PE
Lembke Construction Company
Albuquerque, Denver
and Las Vegas, Nevada

Moderator

Richard H. Clough, PE
Dean, College of Engineering
The University of New Mexico

Representing

CONSULTING ENGINEERS

Frank H. Bridgers, PE
Bridgers & Paxton
Consulting Engineers, Inc.
Albuquerque

Representing

SUB CONTRACTORS

L. E. Meyer
L. E. Meyer Company
Mechanical Contractors
Santa Fe, New Mexico

Representing

LEGAL PROFESSION

Charles E. Barnhart, PE
Attorney
Albuquerque

PROGRAM

10:00 AM **Coffee in Faculty Lounge, New Mexico Union**

10:30 AM **Theatre, New Mexico Union**

Welcome

President Tom L. Popejoy
The University of New Mexico

Introduction of Panel Participants

M. F. Fifield, PE
Director Physical Plant
The University of New Mexico

Moderator

Richard H. Clough, PE
Dean, College of Engineering
The University of New Mexico

Assistant to the Moderator

Wayne C. Eubank
Chairman, Department of Speech
The University of New Mexico

Opening Remarks by each panel member stating nature of problem from the standpoint of the group he represents (limited to five minutes each)

Panel Exchange as appropriate at the discretion of the moderator (limited to two minutes each)

Comment from Floor as appropriate at the discretion of the Moderator (limit to one minute each)

12:00 Noon **Ballroom, New Mexico Union**

Chuck Wagon Lunch ($2.00/Person).

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NOTICE TO ALL READERS OF THESE MINUTES

The statements recorded in these minutes could be very easily misunderstood if restated out of the context in which they were first made. Accordingly, it is respectfully requested that no passages or statements be taken or lifted for republication or broadcast without the approval of the person being quoted...

INTRODUCTION OF PRESIDENT POPEJOY

MR. FIFIELD A few months ago I had the pleasure of going to a party with a group of people from Raton. Looking around, there were a lot of people from the University that I knew -- the Controller, Purchasing Agent, and a Dean of Students. I missed one fellow, though. Some awfully good people come from Raton, you know. It seems that in 1921 a boy came off a ranch and entered the University and got a B. A. in Economics in 1925, and in the process picked up four letters in football. He had several assignments through the years that I would like to tell you about. He got his M. A. in Economics in 1929. Between 1925 and 1929 he was Graduate Manager of Athletics, Director of Student Employment; he served as Alumni Secretary and as Student Activities Adviser. He was also an Instructor in Economics. He became an Assistant Professor in 1929 and Associate Professor in 1937. Well, you think that's a pretty active life! From 1941 to 1945 he served as Acting Registrar; in 1937 he started acting as Controller and held that position until 1948; he became Executive Assistant to the President in 1936 and held that until 1948, and in 1948 he was inaugurated the 9th President of the University. He also got his Ph.D. from Bob Houston's school -- that's where he kicked the winning field goal against the University of Arizona. Tucson people are still talking about that feat. It gives me great pleasure to introduce one of the best bosses you could ever have, President Tom L. Popejoy.

WELCOME REMARKS BY PRESIDENT POPEJOY

PRESIDENT POPEJOY Thank you, Fife. Ladies and gentlemen. I guess I won't cut your salary, Fife, for saying what you did. I find that staff people always give you a good introduction. I want to make one correction, however. I didn't receive a Ph.D. from the University of Arizona; that was a Doctor of Laws, an honorary degree. I want to keep the record straight.

Coming back to the conference itself, let me say that I appreciate greatly the fact that Mr. Fifield, his staff and others at the University have seen fit to call this conference and to give leadership to it. We are engaged, as an educational institution, in a tremendous teaching and research program, but in carrying out these responsibilities, we need, of course, many capital additions to the campus from time to time in order that the institutional program and research programs of the University can succeed. Let me say that, from the point of view of the President's office, we have had over the years a fine relationship with contractors and subcontractors and architects, we feel. I don't recall a time in all of the tenure I have had at the University where we felt really that these organizations were trying to let the University down in any way. There is pride in workmanship on the part of the contractors and subcontractors and there seems to be a willingness, even a desire -- a strong desire on their part to make a contribution to the almost-permanent future of the University in the way of buildings which will be here a long, long time.

We have reorganized ourselves in recent years in the sense of planning buildings. We have, as most of you know, Mr. Hooker on our staff now, who is the Resident University Staff Architect. He works with the departments of the University in planning programs for buildings and then, in turn, works with the architectural firm employed to do the plans and specifications for each building. He also represents the University during the construction period. I hope, if you haven't met Mr. Hooker and his staff, you will have an opportunity to do so at this meeting. We think the office is an important one and believe Mr. Hooker's people are doing a fine job. We also think other segments of the University interested in our program, such as the Building Committee, and the Planning Committee, chaired by Dr. Sherman Smith, have a contribution they can make and are making in the planning of our new buildings.

I hope this is not facetious. Possibly I should say the most important thing we really want, of course, in the future would be lower bids from everybody. I hope you will be able to do that as a result of this conference. I am sure Fife had this in mind. I am not a student of the problems involved in bidding, but in my capacity as President of the University over the years, I am aware that there are some things about the procedure that you don't like. Maybe as a result of meetings such as this you will be able to resolve some of them. In any event, I am happy to have you visit with us, happy that people on the faculty are willing to participate, and hope those in the audience will be willing to participate as well. Best of luck to you and the meeting.

INTRODUCTION OF SYMPOSIUM PANEL

MR. FIFIELD Thank you very much, Tom.

I am going to introduce the panel members. Please hold your applause and we will applaud everyone at the end. Mr. Houston will you start walking please. One of my very best friends in the physical plant, and I have hundreds, is Bob Houston, the counterpart of our organization here, in Arizona. When we asked the several other panel members who they would like to represent the Owners, they said they wanted somebody who had, from the beginning planning stages, a knowledge of major buildings. They wanted somebody that saw buildings go through every phase of construction to occupancy. I nominated Bob Houston for the assignment. I told them his capacity and they immediately responded, "that's our boy." Just a few things about Bob. He has a Bachelor of Science in Civil Engineering from the University of Arizona. He was four years with the National Park Service as Field Engineer. He was for five years Assistant City Manager for the City of Tucson; he was with the Corps of Engineers during World War II and finished off his 20-year reserve tenure; he was in private practice in the Los Angeles area from 1945 to 1948 and, in 1948, took his present job as Director of the Physical Plant and in 1964 was named Vice President of the University of Arizona.

Max Flatow, will you start walking. Almost all these persons were known to me personally and I didn't need to ask too many details in order to introduce them. One of the most interesting things I want to say about Max is that he is a graduate of the Masonic Orphans' Home at Fort Worth. One of his best friends, who was also a graduate of the Masonic Orphans' Home, is now the President of Baylor University, Dr. Abner McCall. Max says one of the best things that can happen to you is to go to the Fort Worth Orphans' Home. It must be a good place to go. He got his degree in Architecture from the University of Texas; he was three years with the world's largest tunnel drillers, the Walsh Construction Company. During the war he was a construction engineer with the Army at Los Alamos and he has been in private practice for twenty years.

Frank Bridgers, will you start walking. Frank has his B.S. in Mechanical Engineering from Auburn, and his M.S. from Purdue. He was with the U. S. Corps of Engineers in World War II -- and while on duty in Shanghai he met a WAC Officer who is now Mrs. Bridgers. After the war he went to Los Alamos and handled a large job for Charles Leopold of Philadelphia, and liked New Mexico so well that when the job was finished in 1951, he started his own consulting engineering business. This firm now has thirty employees, and works for other institutions and businesses beside ourselves -- BYU in Utah, and the Simms Building, to mention two.

Charles Lembke, will you start walking. I know an awful lot about Charles; in fact, if any of you care to get the next issue of the New Mexico Professional Engineer, there is a profile of Charles Lembke that we are very proud to have in that magazine. He has been very closely associated with the University and, to get this interview -- in fact, it took me about four different times to get the story. We kept

talking about other things. One of the times I went down to talk about his own life, and I just mentioned that we had accepted bids on the Medical Sciences Building for two million, nine hundred thousand -- our most expensive to date -- and one of the contractors, who was third low was Bill Stuckman, President of the Association of General Contractors for New Mexico. I noted to Charlie that Bill Stuckman had not complied with the letter of the bid form and named his subs. Charles proceeded to give me a thirty-minute lecture. He pointed out that Bill couldn't have men glued to the desk in his office like Charlie Lembke did -- about 8 fellows trying to get bids down to the lowest common denominator. I think Charles has a point. Obviously there are two sides to the problem. Charles Lembke was born and raised in New Mexico, was the first Civil Engineering graduate from the University of New Mexico, has built twelve buildings for the University, among them the following now under construction: the $1,800,000 Library and the $1,900,000 Concert Hall.

Larry Meyer, will you start walking. Larry came over from California in 1949 and started a job with the Glen Hickman Company at Los Alamos. He liked it so well that, in 1951, he started his own business, the L. E. Meyer Company, Mechanical Contractors of Santa Fe. He is a past Director of the National Association of Plumbing, Heating and Cooling Contractors; Chairman of the National Association of Plumbing, and Heating and Cooling Contractors, Liaison Committee, Washington, D. C.; and Chairman of the Board of Trustees for the New Mexico Pipe Trades Pension Fund, the Joint Apprenticeship Fund and Industry Program -- just to mention a few from his folder.

Charles Barnhart, will you start walking. I could tell a lot more about each one, but would like to speed it up so that we can get into the discussion. Charlie Barnhart got his B.S. in Mechanical Engineering in 1944 and then was in the United States Navy for a year and a half. After the war he was with the Technical Service Company for two and a half years. He was in business for himself from 1948 until 1956, then stopped everything because he wanted another degree. He went back to UNM Law School and got his law degree in 1959 and has been practicing law since that time. We wanted somebody on the panel who had an understanding of Engineering, and also an understanding of Law -- to keep everything legal. Needless to say we picked out a good man for this unique assignment.

We have asked a stenographer, Mrs. Sammy Nour, to take minutes of the meeting. She is a Court Reporter, is used to taking notes fast, and will make a complete transcript of what transpires in this Symposium.

It is most necessary to have an orderly procedure here so we have asked Dr. Wayne Eubank, Head of the Speech Department, to be our Assistant Moderator. We have asked him to have a system whereby he could notify people when they were within thirty seconds of their time. He has the darndest bunch of whistles, so we will see what he uses when you are within thirty seconds of the end of your allocated time. If you're still talking when time is up, big as life here stands Wayne Eubank. O. K.?

Now to introduce your moderator. This presented a really tough problem. It took a fellow who had been on both sides of the fence. Dean Richard H. Clough won't you start walking. Dean Clough has his B.S. in Civil Engineering from the University of New Mexico, his M.S. from the University of Colorado, and Ph.D. from M.I.T. From 1946 to 1952 he was with the Civil Engineering Department, and two years of that time was in graduate work. From 1952 to 1957 he was with Mr. Lembke's firm, in which his father was associated as a partner. He came back to the Civil Engineering Department for a year in 1958, then was made Chairman of the Department in 1959 and made Dean of the College of Engineering in 1960. He is also the author of the most successful book by John Wiley and Son, Construction Contracting. It is a classic.

So there is your panel. Shall we give them a hand?

PART ONE - OPENING REMARKS BY PANEL

DEAN CLOUGH The purpose of this morning's symposium is to conduct a frank and perfectly candid exchange of views concerning present construction bidding procedures, and to provide a sounding board, at least, for the presentation of ideas and gripes. The members of our panel represent the points of view -- you have already heard all of them -- of owners, architects, consulting engineers, general contractors, special contractors and the legal profession. The conduct of the session will be as follows: Part 1, a presentation by each of the six panel members. This will be followed by a brief exchange of views and questions between the six panel members, and the final portion of the time will be devoted to questions from the floor. The initial presentation by our panel will be limited to five minutes each, and the panel exchange following we will limit to a total of ten minutes. Questions from the floor, in which you will participate, will be limited to one minute per person. As has already been indicated, if you go overtime, Dr. Eubank will indicate this, and I must warn you that time limitations will force me to adhere to this schedule. I want to urge each of you who wish to participate to be as concise and brief as possible. Please do not speak until I have recognized you. Now, to get to our panel and Part 1 of the presentation, the panel will appear in the order in which they appear in the program. Mr. Robert L. Houston, who represents the owners, Mr. Houston.

MR. HOUSTON Dean Clough, Mr. Fifield, gentlemen of the professions, it is a pleasure to be over here at New Mexico. I know of no two schools that are closer together than New Mexico and Arizona. I know of no two states that have more common problems; as a matter of fact, they were born at the same time, 1912. Unfortunately Arizona, in order to gain recognition, had to split off at an early date from New Mexico. Sometimes I think that was a mistake. What a state it could have been if we had remained together! Fife invited me to come over here and I was very pleased. I wondered at his wisdom in asking me; however, two weeks ago I had the pleasure of attending a meeting in Salt Lake City, and another one in Seattle, of Physical Plant Administrators from all of the schools in the West, so I thought this could be a good time to approach my counterparts on problems we are discussing here today. I got two general opinions from them: One, all contractors are crooks; two, architects and engineers never design what we want. Obviously that isn't true, but in talking to them, I jotted down a few objections and I thought I would give them to you this morning. It just shows what some of our problems are as owners.

When an owner authorizes the architect to invite bids on a new building costing several hundred thousand or several million dollars, the owner naturally hopes for a reasonable amount of healthy competition for the project in accordance with the principles of American enterprise. However, the owner expects to use the structure for many years and he has directed that the design contain elements and features incorporating the maximum amount of operating efficiency he can, and still be within the limitation of his building budget. Thus, when the building is being bid the owner is usually a helpless bystander to the actions of the several contractors and subcontractors in the procurement and development of the bid price. The owner knows he has problems. First, several contractors initially estimate perhaps higher than they should. Then, in several rounds of manipulation and adjustment, the bid is worked down to the point where when the low bidder is announced, you can frequently depend on one or more subcontractors, and maybe even the general contractor himself, wishing he had not bid the job even before the ink is dry. During construction this causes constant tension and harrassment between the subcontractor, the supplier, the general contractor, the architect and the owner in which one or more of the contracting parties are constantly devising ways and means to cut costs without too much regard to quality, while the architect and owner are striving to have the construction come within the intent of the plans and specifications.

Thus the owner's plea is simply this: Build us good buildings with good materials and equipment and accepted standards of workmanship. Give us the building at the most reasonable price for the quality specified, but retain for the contractor and his several associated subcontractors, suppliers, et cetera, a reasonable and healthy profit. To many who are present this may sound like a project for Utopia, but surely some supervisory control or safeguard can be developed that will assure us all of a more satisfactory means of arriving at the most satisfactory contract for the benefit of all parties concerned. I am sure the representatives of all owners present, particularly the representatives of our host, the University of New Mexico, would welcome any suggestion that might help us consider how to achieve this -- so let's at least try. Thank you.

DEAN CLOUGH Thank you very much, Mr. Houston. And now, representing the view of the architects, Mr. Max Flatow.

MR. FLATOW I have been opening bids here in this state for about 21 years. Twenty years ago it seemed to be a rather simple problem. Then the last few years and the last few months it seems to have become more complicated -- and more complicated daily. We used to write up a simple bid from your bid proposal forms but -- well, lawyers are involved in it now.

In fact, the Los Alamos Courthouse job, handled through the Atomic Energy Commission and printed in the local office, came up with some of the most unusual requirements in bid forms, and for revision to the specifications. I could explain to them why these things were not in the best interest of the owners or trades, but I didn't get anywhere. I had to take out of the specifications all reference to subcontractors, so that there is no definition of work by subcontractors as such, and this is just one small problem.

But the bidding procedure has become most difficult in the last few years and much more complicated.

Any change you make in bidding procedures must be directed to a benefit or gain to the owner. This can be had either through low bids (which is the first thing the owner likes to talk about)-- he wants more for his money all the time.

Actually there are only three ways an owner can get more for his money. First, is good design. The basic concept of the building should be the best that can be devised. The second, through complete plans and specifications. The third way an owner can get more for his money is the selection of a competent contractor who takes pride in his work.

Now if you change anything, you must effect a saving that results in a curtailment of one of these three categories. The architects are hard pressed to produce because they are not permitted to use their full training and skill to produce good designs and good basic concepts. We are finding ourselves hard put to develop good plans and specifications, primarily because our fee structure is pretty much set. You can only do a certain amount of work for a given fee, and if you change the bidding procedure in any manner, that places a greater load on the architect; therefore, the owner will suffer. The only thing the architect can do to stay in business is to either reduce his design effort or reduce his production of plans and specifications still further -- and both of these are going to result in poorer buildings to the owner. If he puts more time into administration of construction after his work of producing plans and specifications is completed, he will have to take it from where his primary responsibility to the owner lies. All of this goes into how many plans he can produce for the owner, how much supervision can actually go into the administration of contractors and subcontractors, and so forth.

Now the selection of a competent contractor with pride in his work is our most difficult problem, and becoming more difficult as you go up the ladder in government circles. For example, take tne GSA job down town which will illustrate the very critical point here. GSA is so big they have got themselves in the position now where most of the work goes to brokers, not contractors. We have recently completed a punch list item on the Federal Building on which we had 7,300 deficiencies. This is a volume of paper this high and single spaced. I don't think there is any chance for the Federal Government to get the kind of buildings the public has a right to expect unless they can start qualifying their bidders. I think the state government agencies can definitely qualify their bidders. I think the invitation as we have used it for this building is not an invitation at all. It is something on the architect's desk that anybody can come and pick up and submit a bid. It does say "invitation" but the quotation is very bad. No one is invited. You see, an architect should be in a position to invite those contractors he considers competent, with the approval of the owner, and who have the intention to actually bid this work.

DR. EUBANK Thirty seconds.

MR. FLATOW Certainly, these are too short periods to explore the problems involved but I think you get the idea of why I think we should invite contractors who are qualified and why I think we should be in a strong enough position to disqualify those who have proved themselves not qualified.

DEAN CLOUGH Thank you very much, Mr. Flatow. And now, to reflect the attitude of the Consulting Engineers, Mr. Frank Bridgers.

MR. BRIDGERS The bidding of a complex building project involves the concerted effort of many individuals, which we might refer to as the construction team. The construction team consists of all members represented on this panel, plus the suppliers. The efforts of the construction team must be made within a relatively short time and they represent a considerable amount of cost to all those involved. The only way that the bidders, which include general contractors, subcontractors, and suppliers, can put forth their best effort and give the Owner the benefit of their best bids is to have what might be called a "good bidding climate." The requirements for a good bidding climate involves many factors which are controlled primarily by different members of the construction team as represented by the members of this panel. Some of these factors are as follows: (1) Time of Bid Date: The time for taking bids is usually controlled by the Architect and the Owner. If the bid date is set at a time when there are a number of other projects being bid, the Owner is not going to receive the benefit of the best bids, and usually a short postponement can make a big difference. (2) Availability of plans and specifications, which is controlled by the Architect and his contract with the Owner. The best investment an Owner can make is to reimburse the Architect for the cost of reproducing plans and specs so that there can be wide distribution for all those who need them to make their "take-off." (3) Well defined plans and specifications that promote the confidence of all the bidders are the responsibility of the Architect and his Consulting Engineers. However, it's the Owner's responsibility to retain competent and qualified architects and engineers. As the saying goes, "You can't make chicken soup with chicken feathers." (4) The confidence of the bidders that there is an adequate construction budget so that all bids will not be rejected. This is primarily the responsibility of the Architect in cooperation with the Owner. Excessive alternates tend to reduce the confidence of the bidder that there is an adequate construction budget. (5) The elimination of irresponsible bidders and suppliers so that the responsible bidders will not be at an unfair disadvantage. This can be controlled to some extent by the Owner and Architect when they are able to have an invitation-type bid. An invitation-type bid is not possible on projects involving public funds. In regard to materials and equipment, it can be controlled to some extent by specifications. One means of improving the possibility of getting responsible major subcontractors is for them to

submit bid bonds for their portion of the work, which would be part of the bid documents. In regard to suppliers, the prior approval of substitution equipment that is not specified, is a burden to the Architect, Engineer, and suppliers alike, but is probably worth the effort. (6) The elimination of bid peddling and rebidding. This primarily is the responsibility of the contractors although the requirement by the Architect of naming of major subcontractors in the bid proposal on the basis of the base bid would tend to eliminate this practice after bids are taken. The major subcontractors (mechanical and electrical) have set up bid depositories to protect their bids. On the other hand, I have known subcontractors to divulge proposals from suppliers, and it's just as wrong for Mechanical and Electrical Contractors to peddle suppliers' bids as it is for General Contractors to engage in this practice. (7) A confidence that plan and specification requirements will be fairly enforced during the construction period is an important factor in having everyone bid on the same basis. The ability of the Architect and Engineer to do this properly is dependent to a large degree on the contract he has with the Owner and how much inspection he is willing to pay for. Equally important is that the Owner should recognize that no plan and specification will be perfect and allowances should be made for fair and reasonable settlement of omissions or errors that do come up during construction.

It would be ideal if all projects could be bid in a climate containing the above factors. I believe that there are enough professionally minded people in this industry to get together and see that such a bidding climate can be made reality. It will add to the image and prestige of the construction industry and increase public confidence, which in turn will benefit all concerned.

DEAN CLOUGH Thank you, Frank. And now, for the general contractors, Charles Lembke.

MR. LEMBKE Dean Clough. Maybe I should say Doctor, but I never did call him doctor when he was in my office -- and I can't tell you now, here, what I called him when he was in my office.

Ladies and gentlemen, most of the items that I have on my list, from the general contractor's point of view, could be adjudicated with the architects and engineers, who present plans for us to propose an amount or bid for the construction of a project.

Many things occur in the requirements an architect sets and we would criticize the amount of paper work which has to be done in order to submit a bid. We find that duplicate proposals are made, which require duplicate bid bonds and duplicate items of insurance, and so on. Then we find, too, that too many alternates are asked which require a separate bid form to each subcontractor and materialman if he is proposing an installation. Incidentally, too, the different bids coming from subcontractors vary greatly with each alternate that is submitted. Then, we get down to the point of submitting names of subcontractors -- well, it would just about mean, if we did this accurately, that we might end up proposing a different subcontractor for each alternate and that would be no benefit to the owner or to the subcontractor.

We also find, in the requirements of specifications, that certain guarantees are required, a requirement for guaranteeing the painting for ten years, and guaranteering the doors for life. That wouldn't bother me much because I won't live as long as some of the doors. But these items get into maintenance problems for the contractor, which is a most controversial area of concern for the contractor.

We also have, now, some indication that the contractor must be responsible for all omissions -- measurements or errors in plans -- and if he does not report those prior to the date of bidding, he is not permitted to collect for their correction after

he starts the job. I daresay that there are very few estimators who examine the dimensions other than for area, square yards, cubic yards, or whatever it might be. He is not looking at the plan with the idea of seeing whether the dimensions are long enough or great enough to tie in with any other dimensions. These are personal errors, and it seems that they should be absorbed by the one who makes the error and not be confined to a contractor, unless he makes the error -- and they make plenty of them. We don't have 7,200, however, or whatever that number was.

The "hold harmless" element of a plan seems to be unbalanced in that sense. We have always had a "hold harmless" clause in specifications, but it was intended for liability more than anything else. If a person is hurt on the job we take it to mean that the architect or the owner shall be held harmless, and you can get insurance for that. But to extend the "hold harmless" coverage very much would require a higher insurance rate which would be reflected back to the owner. And, according to President Popejoy, we are to cut the price rather than raise it.

DR. EUBANK (Blowing the whistle) Thirty seconds.

MR. LEMBKE You should have tooted long before now, but I will quit right there.

DEAN CLOUGH Thank you very much, Mr. Lembke. And now, speaking from the point of view of the subcontractor, Mr. Larry Meyer.

MR. MEYER Suffice it to say I feel privileged to be here today representing the electrical and mechanical subcontractor groups. What I have to say has been pretty well said so it may sound like an echo. Just bear with me.

The electrical and mechanical subcontractors have to cope with many problems in today's complex construction industry; however, the list is narrowed considerably when we limit it to the bidding practices in construction work here in the State of New Mexico. Some of our problems in bidding work are self-created, such as inexperience, lack of an organization for estimating, education, et cetera. Since these are the subcontractors' individual problems, I have excluded these from my list and I will only elaborate on those problems that can be solved through joint effort.

In the time allotted I would like to discuss briefly a list of eight problems confronting us when bidding projects. I am not going to present them in order of importance, because they all have related importance.

First, under problems relating purely to prepared plans and/or specifications. In discussing this subject, in no way is it meant to issue a blanket indictment against the architectural or engineering profession. To imply this would be wrong and injurious. Neither is there a Utopia just around the corner. It is always a problem, when you are presented with a bid, to open it and find the specifications vague, incomplete and overlapping in other sections. When this happens we spend a considerable amount of time trying to determine the intent of the architect or the engineer. It seems that this occurs more often when plans and specifications are prepared by architects and engineers from out of state who are not familiar with our local conditions.

The second item that can cause an ulcer, or loss of hair, or develop a headache, refers to the issue of late addenda, expecially on projects which have numerous bids. Mr. Lembke spoke on this.

The third item -- which again has been discussed, but I take a little different viewpoint -- is the difficulty in securing plans and specifications. On major projects it is essential that the mechanical and electrical subcontractors have in

their office during the entire bidding time a complete set of plans and specifications--and I mean complete, with the architectural, structural along with the mechanical or electrical sections. Often they are only available to us in plan rooms, or we can only get them on a loan basis, overnight, from the general contractor. If we can't prepare our bid in this manner then we are forced to purchase the plans and specifications. This practice of requiring "subs" to purchase plans and specifications seems to be a more and more frequent practice in this area.

The fourth item -- the bid forms are too long. We agree with the general contractor on this. Many of them contain too many alternates. Unit costs are excessive items when there are major equipment people bidding. Thus it compounds our problem of trying to get out our bid in time for the general contractor to properly evaluate the bids prior to, in turn, submitting the bids to the owner.

The next problem is the lack of thorough and rigid inspection by the owner's representative, that is, the architect or the engineer. You might be surprised to hear we in the subcontracting group mention this. The lack of proper inspection of previous jobs by some -- notice I said some -- architects and engineers does cause concern to qualified and responsible electrical and mechanical subcontractors, especially when we are considering whether or not to submit a bid on the next job that has been designed by one of these architects or engineers who have been lax. The lack of thorough inspection is similar to issuing to some general contractors and "subs" a license to steal. When this condition exists, it attracts unqualified electrical and mechanical subcontractors and general contractors. It causes a deterioration in bidding procedure and results in inferior building construction.

Item 6, pre-qualification. Pre-qualification of bidders is practically non-existent in this area, therefore the industry is pitting responsible electrical and mechanical subcontractors against unqualified and irresponsible subcontractors.

The next problem is the "murder" clause. Here again this has been discussed. Of course, this is a colorful term contractors use to describe any language in the specifications that imposes an unjust, improper or unreasonable burden on the contractor. It sums up the "heads I win, tails you lose" attitude of the contract giver to the contract receiver.

Last but not least is the problem of bid shopping, or bid peddling. In my opinion this is the greatest problem that the subcontractor faces today. Many different methods have been devised to eliminate this evil. Some of the better ones are the Chicago Plan -- which I don't know how many of you are familiar with -- and the one that comes closest to Utopia. This is calling for separate mechanical and electrical bids.

In conclusion, this is a condensed summary of the major problems the mechanical and electrical contractors have to contend with when bidding work in the area. We hope, through this meeting, we will convey the thought we are not terribly abused, but we are seeking a way to jointly solve these problems.

DEAN CLOUGH Thank you very much, Mr. Meyer. And now, representing the legal profession, Charles Barnhart.

MR. BARNHART Dean Clough, ladies and gentlemen. Fortunately the attorney becomes involved in these matters usually only after the problem has come to a head. The attorney will advise you as to any action under the law which you may take. But we have found in the past that the only truly happy man in the construction business, whether he be owner, architect, engineer or contractor, is the one who has a good, fair, unjust advantage.

Now the lawyer's main problem is to see that the bidding of public works projects in the State of New Mexico comply with the statutory requirements of bidding. Many procedures can be devised, most of which won't comply with our New Mexico statutes, which very definitely set out that a public contract must go to the lowest responsible bidder. How do you define a "responsible" bidder? Is this a bondable contractor? I don't know. This is a term that has been used throughout the statutory requirements. It has a definite difference in meaning to the architect, to the owner, to the subcontractor, and to the general contractor.

We also build into the New Mexico Statutes -- I say "we" advisedly -- a preference for New Mexico general contractors and we also have a preference for New Mexico subcontractors. The preference is, in effect, that if it is possible, contracts should be awarded to New Mexico general contractors and New Mexico subcontractors.

Another problem along this line of statutory requirements is the exclusion of acceptable substitutes. Now I have just crossed myself. We have excluded a substitute which I said is acceptable. Here again we have a problem that goes throughout the contracting area and is pinpointed usually in the architect's office and the architect will quickly disavow and say, "No, this isn't me, this is the owner." As an example, who sets up the standards of material for the University of New Mexico? Is this an industry-wide standard that the architect uses day to day for private jobs, or a University of New Mexico standard, or is this standard set up by the Buildings and Grounds Department under Mr. Fifield? Who sets the standard? Who says that this material does, and this material does not meet standard requirements. As an example, I would venture to say that the University of New Mexico hasn't used anything but one brand of hardware on their doors for 25 years. The reason for this, of course, is because they can use a one key master system. It does, nevertheless, hamper competition in the bidding of hardware. Competition, the moderator has said in the symposium objective, is the keystone of our American free enterprise system.

The payment of subcontractors and general contractors by the owner is always a problem. AIA standards allow 7 days for the issuance of certificate of payment and they allow an additional 7 days for the owner to make the payment. This is 14 days after submission of request for payment. The AIA standards go further and say that in the event payment is not made within this 14 day period the general contractor has the right to stop the job. I wonder what would happen if he did? Further, where does the subcontractor stand in this schedule of payments. Many times the subcontractor is paid 30 to 45 days behind the general contractor. The "non-responsibility" or "murder" clause, as I heard it referred to here, is a clause which basically says, regardless of the plans and specifications, that the contractor will guarantee a proper and complete job even though the errors, in effect, may be those of the architect or engineer. This, obviously, is a hypothetical thing. Architects and engineers don't make mistakes.

DR. EUBANK Thirty seconds. (laughter)

MR. BARNHART If you don't believe this, ask the contractor who has found one and gone to the architect or engineer with it and asked that he foot the bill for the correction of it. In summation I would say that the New Mexico bidding procedure problems are not different from the private problems and, basically, integrity in the owner, architect, engineer, contractor and subcontractors is the answer to the overall problem. Thank you.

DEAN CLOUGH Thank you very much, Charlie. Wayne, your last signal sounded more like a razzberry.

MEMBER OF THE AUDIENCE Which was appropriate.

Part Two - Panel Exchange

DEAN CLOUGH Following these remarks by the panel members, we will now take about ten minutes for the panel members, at their discretion, to address themselves to one another in the points that have been raised. Gentlemen, if you have a question or comment, would you please raise your hand to be recognized and, if you have a question, would you please direct it to a specific member of the panel. Any comment? Frank.

MR. BRIDGERS Dick, I think there have been a lot of good ideas thrown out, or problems stated, and I don't think there is any concerted effort by, you might say, an organized group to solve them together. I don't think any one group, AIA, general contractors, professional engineers or other group can solve these problems without working together on it. And I would like to ask Mr. Lembke if he knows or can suggest some way all of these groups can get together and work on those problems in concert.

MR. LEMBKE If you have 25 people meeting and you get 25 ideas, I think you would have difficulty in changing the rules as would be required, or asked for, by each "sub" or each materialman or each "general." But they might be modified. As an example, the Associated General Contractors of America and the National Association of Mechanical Contractors met many times to solve a plan of naming subcontractors, particularly the electrical and mechanical, in the bid document. They only spent three years at that, and when they came up with the idea that was finally endorsed by the AGC, GSA -- which is the government construction group having in its care all of the federal buildings at the present time, didn't like the idea. Now GSA, in turn, were condemning the contractor for shopping after a letting -- is this on the subject? It just occurred to me it is nice to have a meeting in a University building. It lends the meeting an air of intelligence. Maybe I shouldn't have gotten off on this deal because it is quite a sore spot with many. Referring back to your question, Frank, I would say that the procedure you suggest would probably be the better way, the proper way, to endeavor to resolve many of the complaints that have been presented in this discussion this morning. What else did you want to ask me?

MR. BRIDGERS You mean with the Association of General Contractors?

MR. LEMBKE Anybody that has problems in connection with business presented to a forum or a higher authority that could make a correction. In the group you might argue that it was not reasonable and should not be changed, but if it were, if it appeared to be reasonable, then that somebody should have the authority to have the adjustment made. If that is possible, I would say your general meeting would be fine.

DEAN CLOUGH Mr. Houston

MR. HOUSTON I have a question I would like to direct to Mr. Lembke, and then to Mr. Meyer. If the owner receives separate bids from the main subcontractors from an approved list of subcontractors, would the prospective general contractor then take these bids and incorporate them into an overall contract package, say, a week later. This would let the contractor start with a known quantity on the subcontractors, all from an approved list. Thus the "general's" ingenuity in pulling together the remaining loose ends would not entail the risk to the general contractor and the owner that is presently the general's sole and almost impossible responsibility.

DEAN CLOUGH Mr. Lembke, do you want to field that first?

MR. LEMBKE: How much time do we have? In the first place that suggestion makes the general approach the element of being a broker which Max Flatow just brought up. He mentioned in his discussion the subject of the Federal Building, which is a

brokerage job. The prime contractor in that instance does not have any employees on the job, to speak of, other than an office man and a couple of girl secretaries. Everything is brokered. If the school system, or any other system, were to adopt a plan of receiving bids and then hand them to the prime bidders, as in the brokerage business, then where does the guarantee come from? And maybe, in this compilation of low bids. he finds a group of men who don't get along together on a job. The personal element enters into it. Then what does the prime contractor do? Each prime contractor has certain requirements of a subcontractor, and one is that he be financially able to carry on his job without coming around every third Saturday and getting payroll money. That would be eliminated by this process. Then, if they have that ability to determine which is the best bid, they might just as well go ahead and do the job themselves. I would simply be raising a hand for survival. That's all I do is put the bids together and make a proposal, with the guarantee I will do it. If I am going to have it done by the owner, I don't enter into the picture. If it is done by the University, I am going to make application to get on the staff. Dick Clough did pretty well.

MR. FLATOW Charlie, I would like...

MR. LEMBKE Yes, you answer the rest.

MR. FLATOW I can't answer that, but it seems to me, if we are going in this direction -- and I think it is called the Chicago plan -- that the subcontractors who are going to make this bid are going to have to look it over prior to bidding it and bid at the highest figure he can to cover all contingencies. This is particularly true if the out of state subcontractor cannot take the time to come here to the high country to look at the job and to see what prime contractors he may draw. He may have to bid a slug because a certain particular prime may be his boss. What the owner and architect are looking for is a team of people that can put the job together. This means working all the way through -- ingenuity, coordination, communication and integrity. I think the description of this proposal destroys these elements of a good contract and will result in higher bids.

DEAN CLOUGH Mr. Meyer.

MR. MEYER I seem to take a different viewpoint. I believe that what the Chicago plan does is to provide a method of taking separate mechanical and electrical bids and putting them in a single contract. This has proved to be the most successful of any plan devised to date. We have had a lot of fancy words written about using bidding procedures, on bidding procedures, and we have had a lot of meetings on bidding procedures. But they don't hold water. The Chicago plan has held water and it is working in other areas.

For you gentlemen who are not familiar with the Chicago plan, the owner or architect take bids, separate bids, for mechanical and electrical -- all the separate bids he can, as requested by the particular "general." The subcontractors are invited. There are various versions of this plan. Normally they don't invite over 6 or 7 of either group. In six years you can get a pretty good group of mechanicals or electricals. They are pre-qualified. They submit a bond at the time they submit their bid so the owner is assured of responsible people. The low figure is then taken and the"general" contractor knows what this is prior to his bidding. The general is able to put a markup on it. This eliminates the trouble the "general" has of knowing whether or not the "subs" are qualified, or are financially responsible. There's a lot of things now solved. I cannot concur with the last statement made by Mr. Flatow that you don't get the best bids or qualified bids with a...

MR. FLATOW The point I was trying to make is, you don't have a team. You are going to have a "sub" bidding the highest bid based on the worst guy he wants to

work with.

MR. MEYER Oh. On that point, we do have the election of not bidding, or not qualifying a bid. If contractor B is a person he has found out through past experience he can't work with, the qualifying bid is either raised, if he is the low "general," or we have no bid for him. We eliminate ourselves.

MR. FLATOW Could I break in and take off?

MR. MEYER O. K.

MR. FLATOW That bond implies ourselves. Certainly it is not. We know this. Everybody who works in this business knows one of our biggest problems is the bonding companies themselves.

MEMBER OF THE AUDIENCE Good.

MR. MEYER I think, when you take this with pre-qualification and the bond...

MR. FLATOW Now, pre-qualification, I am with you.

MR. MEYER And the bond.

MR. FLATOW But the bonding business doesn't mean anything. It just gets us into trouble.

MR. MEYER But I believe, if bonding is required on every job -- we know some contractors jump the first hurdle and get one bond, but if they have bond two, three and four, they're in trouble. They have never gone that far. I agree, bonding is easily obtainable for one job -- one shot only.

PART THREE - COMMENTS FROM FLOOR

DEAN CLOUGH Mr. Meyer, let me interject. Let's give the other people a chance to participate since somebody may have something to say along this same line. I will now entertain questions from the floor. I will remind you again that the proceedings are being recorded, so please speak loudly and distinctly. When I recognize you, would you please stand and give your name and business affiliation, and also would you please direct your questions to specific members of the panel if you feel it is proper. John Testman. Yes, sir.

MR. TESTMAN (Testman Company, General Contractor) Dick, I feel that the statements of the peddling of sub bids is not as great as what is being brought out. I will say this: In the dealings with subcontractors, particularly mechanical contractors, that the mechanical contractors are doing more chiseling on their own "subs" and suppliers than the general contractors ever did on them. So now what I feel we need is a bid depository system, not as a correction or the cure-all of everything, but purely as a matter of information. Everybody knows what the bids are, and then the individual can take it from there to do what he wants with them. If he has been chiseled on, he doesn't have to bid any more with that particular "general," "sub," mechanical or electrical. He just gets in there and gets the amount purely as a matter of information. It's not a cure-all for anything, but we can then judge what to do whenever the information is all out on the table.

DEAN CLOUGH Thank you, Mr. Testman. Let me remind you again, there is a one minute limit on questions. When you are recognized, please give your name and business affiliation. Yes, sir, Mr. Hesselden.

MR. HESSELDEN (Hesselden Construction Company, General Contractor) I don't have a question, exactly; I have a statement to make. It is with regard to Mr. Meyer's statement. We built for about fifteen years with a client who required that we take four bids on every job bid, from the plumbing contractor, the heating contractors, and so on, and we selected a contractor. Then when the job was awarded, four contracts were written. And I would like to see a show of hands from the contractors who worked on those projects that would like to see us return to that procedure.

DEAN CLOUGH This is the use of separate contracts?

MR. HESSELDEN Four separate contracts on every job.

DEAN CLOUGH Shall we have a straw vote? Who likes separate contracts on the basis of local experience? .. Countering this, who does not? .. I think maybe that is your answer. Mr. Flatow.

MR. FLATOW Everybody is looking down their nose at shopping bids. Gee! That is a surprise to me. This is the basis of our entire system. This is what the owner wants. We are trying here to come up with a system that will give the owner better buildings at lower cost, basically, in some way. We are not going to do it by taking away the only thing we have got that really achieves that...

MR. MEYER That statement is a little contrary to the AIA Manual here.

MR. FLATOW I am a member of the AIA and know the Manual, but I don't think our business would recommend that we come up with a paragraph singled out of it. What we need to do, as I see it, is to get contractors with integrity, and insure that they do not shop below the level of work we specify -- but, by golly, shopping has to go on.

DEAN CLOUGH Mr. Cook.

MR. COOK (New Mexico Marble and Tile Company) We have heard a lot today about pre-qualification. Can one of you tell us a little more about what that consists of?

DEAN CLOUGH Who wants to field that one? Mr. Flatow.

MR. FLATOW I would like to do that. I would like to qualify you when bidding my work. If I don't like you, to heck with you.

DEAN CLOUGH Do you have a question?

MR. HENSLEE Elmo Henslee, Pecos Construction Company, Roswell. Is there a method of owners qualifying architects, in that case?

DEAN CLOUGH Mr. Houston.

MR. HOUSTON Well, this one can be kicked around a lot. It depends on who the owner is. If it is a public institution, they have certain limitations on pre-qualification -- maybe the fact that he is registered in the state as an architect is all that is necessary. Other institutions have a pretty free hand. At the University of Arizona we don't have any trouble in choosing our architects. The majority of architects are well satisfied with our choices of architects. There are a few, of course, who are dissatisfied with our selections.

DEAN CLOUGH Mr. Bridgers, did you have something?

MR. BRIDGERS I just wanted to clarify one thing regarding the shopping of bids. I think everybody wants to get as many bona fide bids as they can get and wants them to come in as low as possible. But when you get bids and the supplier knows he is going to have to go to a rebidding and a second opening, he is not going to give the owner the benefit of his best bid.

MEMBER OF THE AUDIENCE Right.

MR. BRIDGERS And you want to get as many as possible to bid and give the best bid so the owner can benefit. When you have shopping and rebidding, it is not the owner who gets the benefit of the best bid, but the contractor -- maybe.

DEAN CLOUGH Yes, sir. Jim Adler.

MR. ADLER Jim Adler, Builders Specialty Service, Santa Fe. First of all, I want to know why there wasn't a supplier's representative on your panel?

DEAN CLOUGH Jim, I didn't pick the panel.

MR. ADLER I would like to address this to Max Flatow. I don't agree that the architect is in a kind of pivotal position. If the owner has thought about the building for several years and knows what he wants, it would give the architect more time to design it and it could eliminate some errors that creep into the plans and specifications. And, conversely, it could give the contractor more time to bid it -- a longer bid period so he could give better prices -- and wouldn't this benefit everyone?

MR. FLATOW Well I am sure, Jim, there is no answer to that. What has happened to us now is that the whole business is getting more complicated. The buildings are getting more complicated. Now you have people write programs that take 30 days to

prepare for a two million dollar building plans and specifications job, whereas it takes the programmers eight months to prepare the program for us to work with. That is ridiculous, of course, but this is basically what happens to plans. The architect gets into it too late. There is always a deadline -- he's got to open a grocery store by Christmas -- he's got to get in the school by September, '65 -- he's got to have a mortuary at the right time for everybody to die -- this type of thing. We don't have enough time for our purpose. If you burden us with more cost of planning, more cost of administration, the only one thing that can happen - unless we raise our fees -- is that we are going to continue to give you poorer, poorer and poorer planning and, consequently, poorer buildings.

DEAN CLOUGH Yes, sir?

MR. ROSS Bill Ross (Executive Director, Mechanical Contractor's Association). Mr. Flatow, don't you believe that raising your fees would eventually result in a saving to the owner?

MR. FLATOW Three things benefit the owner, the concept of the building, good plans and specifications and a qualified builder. We are talking about fees ranging in the neighborhood of 6%. I would say, in my office, with 2% more on fees, we could save a good 10% out of the total building project.

DEAN CLOUGH Any additional questions? Yes, sir.

MR. PAXTON Don Paxton, Bridgers and Paxton, Mechanical Consulting Engineers. The point has been brought out about this question of errors in the plans and specifications -- whose fault is it? Who pays for it? I feel that quite a lot of work can be done on this point with the owner, the architect, the engineer, and the contractor. I feel that the owner, in the first place, should realize that nobody is perfect; everybody is going to make a mistake or an omission some time. Now if an omission is made, as Frank Bridgers brought out, there should be enough money available to take care of some changes -- some change-orders, omissions or errors. And if an omission is made in a contract which had it been put in originally, the owner would have paid for the item, then I feel that definitely the owner should pay for it, even at a later date. I think this is something that requires a lot of consideration on the part of all of the people involved.

DEAN CLOUGH Thank you, Don. Yes,sir.

MR. CHANT George Chant, Chant Electric Company. I think one thing the subcontractor should bring out: If the electrical consulting engineer and the mechanical consulting engineer could be in the same city, at least this would help the problem with contractors going on the job and, all of a sudden, the mechanical says I have to rip up the electrical portion. I have seen controls and electrical connections that were not shown on any plans. I feel that this is a mistake that could be alleviated if the electrical and mechanical consulting engineers were closely related -- not in different cities.

MR. FLATOW I would like to speak to that.

DEAN CLOUGH Mr. Flatow

MR. FLATOW I would like you to know that with certain government agencies, this has become necessary to do. Their lawyers say, no, you can't award a contract to a particular contractor, or subcontractor, or sub subcontractor -- they're not qualified and you can't even break open the bid. I agree this is wrong and what it results in is bidding twice in lots of places. It is terrible but you can't convince some

lawyers sometimes.

DEAN CLOUGH Yes, sir.

MR. STEHWEIN Carl Stehwein, Winrock Center. It seems we have a little trouble once in a while with what we call a stereotype paragraph in the specifications where an out-of-town architect does not consider local conditions and contractors use this as an excuse -- "Oh, that's the same old specification." Is there any way of ironing that out? I am speaking particularly about "noon-midnight," temperature expansion joints and this sort of thing.

MR. FLATOW The basic problem he is talking about -- the major portion of wrong is done in universities, and schools, and by the Federal Government. We have a real tough, impossible situation. The stuff we turn out is just dreadful and I am going to try to do something about it. It is ridiculous to turn out to you people the type of specifications that we -- that GSA requires. For example, most of it -- 99% of it -- is ambiguous, it duplicates, it doesn't cover the point in question, and this type of thing. We are all prone to try to devote our efforts where they pan out. We get a real stock clause -- if I find an architect has done something real good, I steal it. I use every chance to save effort to devote time to detail in my job for the owner.

DEAN CLOUGH Mr. Lembke, did you have something?

MR. LEMBKE I just wanted to be sure it's showing in the record about the lousy plans and specifications coming out.

MR. FLATOW If you are trying to embarrass me, I am not in the least.

DEAN CLOUGH Another question, Mr. Adler?

MR. ADLER Mr. Adler, Builders Specialty Service, Santa Fe. I would like to clarify one thing. When we use the term "bid peddling," we are not talking about -- we are not -- some of us are not talking about just as reprehensible a practice as the contractor calling a plumbing contractor and saying, "Jim Adler just bid such and such on such and such a job. How much lower can you get?" That's not...

MR. FLATOW Well, Jim, I am. Let's face it.

MR. ADLER You condone that sort of thing?

MR. FLATOW If you are fool enough to go along and meet the specifications -- the quality of the specifications -- this is in the owner's interest, talking about these things.

MR. ADLER So is talking about integrity.

MR. FLATOW That's yours, not mine.

MR. ADLER It's not mine; it is the general contractors.

MR. FLATOW This is collusion between two contractors. It has nothing to do primarily with the owner getting the quality of material that is in the plans and specifications.

MR. ADLER I don't agree. [ ]

MR. FLATOW In that regard, I am satisfied it does tend to do that, but basically, the practice is not wrong as far as the owner is concerned.

MR. BRIDGERS Max, don't you think it is wrong, after the bids are taken, for the owner to...

MR. FLATOW I think Charlie Lembke ought to buy -- to buy within a reasonable length of time, to meet construction, whatever he can buy that meets the quality of plans and specifications the requirements from the standpoint of workmanship and material.

DEAN CLOUGH Please let me recognize you. Please.

MR. BARNHART Max, I'm glad to hear you say this. This is the finest business a lawyer's office ever got.

DEAN CLOUGH Mr. Meyer.

MR. MEYER Charlie just said it, in other words. I don't believe any general contractor would sit here and go along with a plan where, when you submit your bids, regardless of where you sit on the totem pole, the owner would say, "boys, I want all eight of you to come back tomorrow," or say that he is going to work with all eight of you, regardless of the price. That is what you are saying we, as mechanical and electrical contractors, should do and you know it's wrong.

MR. FLATOW I'm not saying that. I'm saying you -- this is something the architect or owner can't control at all in any way. It is going to go on. We have been working on it ten years. The only way it could be solved is for you to make the owner a statement of what the job is worth and stick to it. If you don't do that, you are not going to solve the problem, regardless of what you put in. It still rests on the integrity you people have. It doesn't affect us; it doesn't affect the owner, except that the owner has to be shopping to keep prices down.

DEAN CLOUGH A question for the floor. Yes, sir?

MR. DILLON Bob Dillon with G. W. Stuckman, General Contractor. I would like to address this to Mr. Houston. We, in this area of general contracting, are becoming more and more concerned about the "hold harmless" clause tending to creep into certain agencies' plans and specifications. I just wondered if Mr. Houston is familiar with the "hold harmless," clause and whether or not there is a tendency of the owner to utilize such in his area. Would not errors and omissions insurance cover this? Couldn't this be best handled by a separate bid item for the payment of the insurance premium to cover this.

MR. HOUSTON I can only talk from my own experience. I was quite amazed when contractors were complaining about being held responsible for errors in plans and specifications. I didn't know anybody but the owner ever paid for that. I think I will give that some thought when I get back. Frankly, I agree with you. We have eliminated all of the "hold harmless" clauses in our plans and specifications -- indemnity conditions -- because we think, if you get down to a case with lawyers, the lawyers won't agree with the owner in the case of the "hold harmless" so you might as well strike the thing out. I agree they should not be in plans and specifications.

CONCLUDING REMARKS

DEAN CLOUGH Ladies and gentlemen, I am going to have to call this to a halt, much as I hate to do so, because of luncheon requirements. I certainly appreciate the time and the efforts of all of the panel members. I think they did a very fine job for us. (Applause.) Mr. Fifield, did you want to say something?

MR. FIFIELD I would like to thank everybody who had anything at all to do with this symposium. It is very healthy to get together and talk over problems. I hope this is the first step. Any time the University can help in any way to provide facilities for further meetings, we would be happy to do so. (Mr. Fifield gave directions for getting to the luncheon.) . . . May I say one other little thing. Some of you asked why there wasn't a supplier up here. This was discussed by the group choosing the panel, but the problem came up -- which supplier and which group? It was so complicated we finally decided to let you speak from the floor if you had a problem. It wasn't that you weren't welcome and you did have a chance to say something here in this open exchange, but this is why there wasn't a supplier represented on the panel. If you will tell me how to pick such a supplier for the future, I will be glad to hear it should there be another go around. Any more questions?

DEAN CLOUGH We stand adjourned.

(The meeting adjourned at approximately 12:15 p.m.)

PROPOSED ACTION FOR SETTING UP A CONTINUING BOARD OF STUDY

It is apparent that an almost unanimous favorable climate exists in the New Mexico area to continue the discussions that have been started in this first Bidding Procedures Symposium.

Accordingly, we have made the following tentative arrangements subject to the approval of all participants.

DATE: Wednesday, January 19, 1966

PLACE: Board Room, Administration Building
Albuquerque Public Schools
724 Maple Street, S. E.
Albuquerque, New Mexico

TIME: 10:00 a.m.

CHAIRMAN: Arthur L. Matthews, AIA
Director of Building Planning Department
Albuquerque Public Schools

PURPOSE (1) To discuss mechanics only of next meeting or symposium.

(2) To discuss the formation of an appropriate organization to handle the related paper work, expenses and support facilities that a continuing Board of Study on Bidding Procedures would require.

THOSE INVITED: All interested organizations and individuals. Please confirm your reservation in writing to Mr. Matthews direct. Thank you.

Respectfully submitted,

M. F. FIFIELD
Director of Physical Plant
The University of New Mexico

MFF:jo

Mechanical Contractors Association
OF NEW MEXICO, INC.

205 TRUMAN, N.E.
265-8704
ALBUQUERQUE, N. M.
87108

November 10, 1965

Mr. M. L. Fifield
Director of Physical Plant
University of New Mexico
Albuquerque, New Mexico

Dear Mr. Fifield:

I should like to take this opportunity to express the appreciation of our Association for your efforts in developing the Bid Procedures Symposium which was held on November 3rd. The Symposium was handled in a most orderly and business-like fashion and all those who took part are to be congratulated.

The presentation and remarks of the various panel members were most informative and it was rather startling to hear that the basic problems confronting our segment of the contracting industry are also the basic problems of the other segments.

Now that these problems have been publicly stated, there is no reason that our various associations and groups cannot work cooperatively to resolve them.

We again thank you for your efforts and I trust we may feel free to call on you, as a neutral agent, for additional help.

Very truly yours,

W. D. Ross

W. D. Ross
Executive Director

CONSULTING ENGINEERS ASSOCIATION OF NEW MEXICO

MEMBER OF CONSULTING ENGINEERS COUNCIL

FROM THE OFFICE OF: D.F. Molzen,
President

November 15, 1965

Mr. M. F. Fifield, Director
Department of Buildings and Grounds
University of New Mexico
Albuquerque, New Mexico

Re: Bidding Procedures
Symposium

Dear Mr. Fifield:

I would like to express the appreciation of the CEC for sponsoring the Bidding Procedures Symposium held on November 3rd. Members of our organization have received several fine comments regarding the Symposium and the manner in which it was organized and presented.

Our members feel that there were a number of suggestions and problems brought up that require additional follow-up. We understand that the Symposium was recorded and that all participants will be issued a copy of the proceedings. We would like very much to have five copies for the Consulting Engineers Council of New Mexico.

As a means of following-up on the various suggestions made, we would like to suggest that the AGC Liaison Committee, which consists of General Contractors, Consulting Mechanical-Structural-and Electrical Engineers, Architects, Mechanical and Electrical Sub-Contractors, be the organization to review the proceedings and take any necessary action that might be appropriate. We feel that this is an existing organization in which three of our members are represented together with other members of the construction industry, and that they might be able to provide a faster means of following up in trying to establish some new type of organization.

We want to thank you and the University of New Mexico again for sponsoring this Symposium. We think it will prove to be very worthwhile for the construction industry.

Very truly yours,

CONSULTING ENGINEERS COUNCIL OF NEW MEXICO

Dayton F. Molzen, President

DFM:jd

New Mexico Building Branch

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

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November 22, 1965

Mr. M. F. Fifield, Director
Physical Plant Department
Unsiversity of New Mexico
Albuquerque, New Mexico

Your initiative in organizing the Bidding Procedures Symposium held at the University November 3rd. was a distinct service to the construction industry. It is our hope, Mr. Fifield, that the success achieved through this initial exploration into the complicated process of assembling a bid proposal in a contractors office will not be the last such opportunity to improve Bidding Procedures, and an understanding thereof.

We shall appreciate receiving a copy of the Symposium Minutes. If there is a charge for providing a copy, please invoice the Association for it.

You are assured of the co-operation of this Association in the further study and evaluation of Bidding Procedures.

Cordially,

Alva J. Coats, Manager

AJC:jl

TEXAS TECHNOLOGICAL COLLEGE
P.O. Box 4610
LUBBOCK, TEXAS 79409

OFFICE OF THE VICE PRESIDENT
FOR BUSINESS AFFAIRS

November 16, 1965

Mr. M. F. Fifield, Director
Physical Plant Department
The University of New Mexico
Albuquerque, New Mexico

Dear Mr. Fifield:

May I compliment you for your foresight, initiative and courage on the Symposium on Bidding Procedures which was held at The University of New Mexico on November 3, 1965.

The subject is one that needs a very great deal of attention and the symposium was the first time that I ever had the opportunity to hear the various viewpoints discussed and debated at one session. It looks as if the surface has just been scratched, as there seems to be a very great deal for all to learn with corresponding benefits.

Thank you for the invitation to attend, and I hope and strongly recommend that you pursue the most important subject even further.

All of us at Texas Tech are most grateful to you and The University of New Mexico for making the symposium possible.

Very sincerely yours,

M. L. Pennington

M. L. Pennington
Vice President for
Business Affairs

MLP:g

TEXAS TECHNOLOGICAL COLLEGE Forty Years 1925 FORWARD 1965 LUBBOCK

ALBUQUERQUE CHAPTER
THE AMERICAN INSTITUTE OF ARCHITECTS

November 5, 1965

Mr. M. F. Fifield, Director
Physical Plant Department
The University of New Mexico
Albuquerque, New Mexico

Dear Fife:

On behalf of the Albuquerque Chapter of The American Institute of Architects, I want to thank you and The University of New Mexico for initiating, organizing, and hosting the Symposium on Bidding Procedures. It was very successful, and the participation showed that there is a great deal of enthusiasm to discuss the subject.

I hope this meeting will be the start of work toward positive solutions to some of the problems.

Very truly yours,

Joe Boehning

Joe Boehning, President
Albuquerque Chapter, AIA

JB/bb

PRESIDENT — JOE BOEHNING
1843 LOMAS BLVD. NE

SECRETARY — ROBERT G. BIDDLE
414 SAN MATEO BLVD. NE

"The Strength
of a Chain
is its
Weakest Link"

From an old proverb